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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/775,949	02/02/2001	Olivier de Pous	VAL1599P0190US	1510

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EXAMINER

NGO, LIEN M

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 03/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/775,949	POUS ET AL <b>MF</b>
	<b>Examiner</b>	<b>Art Unit</b>
	LIEN TM NGO	3727

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 24 December 2002 .

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-16 is/are pending in the application.

4a) Of the above claim(s) 10-16 is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-9 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.  
14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a)  The translation of the foreign language provisional application has been received.  
15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) 5)  Notice of Informal Patent Application (PTO-152)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_. 6)  Other: \_\_\_\_\_

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## DETAILED ACTION

1. Applicant's traverse that claim 1 is a generic claim is acknowledged. The traversal is found persuasive; therefore, claim 1 and is generic to all listed Species.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3. Claims 1-5 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by McGarvey (5,069,369). McGarvey discloses, in figs. 2 and 2A, an attachment device comprising a ring 30 forming a skirt equipped with attachment means 31, reception means, and annular plate 14 made by a resilient polymeric material (see col. 3, lines 33-35) which is capable to move axially upward away from the attachment means by a deformable flexible connection (a thinner portion of the plate 14) when pressing the plate on an upper end of a neck of a bottle. The deformation

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connection is formed by a peripheral annular recess or a punch provided in the plate to reduce the plate surface thickness . In regard to claim 7, the deformation connection is more flexible than the other portion of the plate because it is thinner.

4. Claims 1-5 and 7- 9 are rejected under 35 U.S.C. 102(e) as being anticipated by VanBrocklin et al. (6,253,941). VanBrocklin et al. disclose, in figs 1 and 2, an attachment device comprising a ring 26 forming a skirt 34 equipped with attachment means 46, reception means 26, and annular plate 30 made by a deformable material (see col. 4, lines 31-34) which is capable to move axially upward away from the attachment means by a deformable flexible connection (a thinner portion of plate 30) when pressing the plate on an upper end of a neck of a bottle. The deformation connection is formed by a peripheral annular recess or a punch provided in the plate to reduce the plate surface thickness. In regard to claim 7, the deformation connection is more flexible than the other portion of the plate because it is thinner. In regard to claims 8 and 9, the attachment means comprise clip-on lugs 42, and the attachment device further comprises a hoop 28.

*Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over McGarvey or VanBrocklin et al. Although McGarvey or VanBrocklin et al. does not disclose the flexible connector comprising a plurality of spacers, official notice is taken it is well known to provide plurality of grooves or spacers in a seal to reduce the thickness of the seal in order to enhance the deformation of the seal. Therefore, it would have been obvious to provide plurality of groove or spacer in the flexible connector (the thinner portion) in the sealing plate of McGarvey or VanBrocklin et al. in order to enhance the deformation or flexibility of the thinner portion of the sealing plate.

*Response to Arguments*

7. Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

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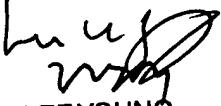
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien Ngo whose telephone number is (703) 305-0294. The examiner can normally be reached Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful. The examiner's supervisor, Lee Young, can be reached at (703)308-2572. The Group FAX number is (703) 305-3579.

Any inquiry of a general nature or relating to the status of the application should be directed to the Group receptionist at (703) 308-1148.

  
Lien Ngo

February 25, 2003

  
LEE YOUNG  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700